



Printer's Error
January 24, 2006

SENATE BILL No. 354

DIGEST OF SB 354 (Updated January 23, 2006 11:25 am - DI 77)

Citations Affected: IC 6-1.1; IC 14-12; IC 14-23; noncode.

Synopsis: Forestry issues. Allows land to be classified as wildlands for purposes of property taxation. Requires a classified forest plantation to have at least 400 trees per acre. Requires a classified native forest land to have at least 1,000 trees per acre. Removes the requirement that certain open areas must be excluded from the classified land. Prohibits certain nontimber crops from being cultivated on classified land. Establishes procedures and requirements for revised applications for classified lands. Establishes penalties for withdrawal from the classified land program. Provides that environmental impact statements do not apply to forestry management practices of the division of forestry. Establishes the forest restoration fund. Amends the definition of "merchantable timber". Repeals: (1) provisions concerning assessment of classified lands; (2) the assessment of certain wildlife habitats; and (3) the prohibition of certain reclamation sites from enrolling in the classified land program. Transfers land classified as wildlife habitats to land classified as wildlands.

Effective: Upon passage; July 1, 2006.

Weatherwax

January 10, 2006, read first time and referred to Committee on Natural Resources.
January 23, 2006, reported favorably — Do Pass.

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SB 354—LS 7032/DI 77+



January 24, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 354

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. For the purpose of
3 property taxation, forest land **and other land** may be classified and
4 assessed under this chapter if the land satisfies the conditions
5 prescribed in this chapter for classification as native forest land, ~~or~~ a
6 forest plantation, **or wildlands**.
- 7 SECTION 2. IC 6-1.1-6-2 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. **(a)** Land may be
9 classified as a forest plantation if it is cleared land which has growing
10 on it a good stand of timber producing trees as that concept is
11 understood by a district forester or a professional forester.
- 12 **(b) A new forest plantation must have at least four hundred**
13 **(400) timber producing trees per acre. The trees may be any size**
14 **but must be well established.**
- 15 SECTION 3. IC 6-1.1-6-2.5 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2006]: Sec. **2.5. Land may be classified as wildlands if it contains**

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one (1) or more of the following:

(1) Grasslands that are dominated by native grasses or intermixed with other native herbaceous vegetation.

(2) Wetlands that support a prevalence of native vegetation adopted for saturated conditions.

(3) Early forest successional stands that are dominated by native herbaceous and woody vegetation that will develop into native forest land.

(4) Other lands the department determines is capable of supporting wildlife and conducive to wildlife management.

(5) A body of water.

SECTION 4. IC 6-1.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Land may be classified as native forest land if it contains at least forty (40) square feet of basal area per acre or at least ~~four hundred (400)~~ **one thousand (1,000)** timber producing trees, of any size, per acre.

SECTION 5. IC 6-1.1-6-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. (a) ~~Open Areas may exist eligible within the confines of a parcel of land identified as a native forest or a forest plantation if the open areas do not exceed the lesser of five (5) acres or ten percent (10%) of the total area to be classified under this chapter and if the open areas may contain any of the following:~~

(1) Nonforest areas containing a good stand of vegetation capable of supporting wildlife that is conducive to wildlife management. A good stand of vegetation must include a diverse stand of vegetation other than monotypic stands or **nonnative invasive species, including** tall fescue (*Festuca arundinacea*) **and other species designated by the state forester.** However, the state forester may allow tall fescue to be used for erosion control.

~~(2) Nonforest wetland areas:~~

~~(3)~~ **(2)** A body of water that:

(A) is less than two (2) acres in size; or

(B) has an average depth less than four (4) feet.

A parcel may contain more than one (1) isolated body of water.

(b) A parcel may not be converted from native forest land or a forest plantation to a non-forest area without a special permit issued under section 17 of this chapter.

(c) Except for crops cultivated solely for wildlife food or cover, a person may not cultivate nontimber agricultural crops on land classified as wildlands.

SECTION 6. IC 6-1.1-6-5 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. A parcel of land may not be classified as native forest land, ~~or~~ a forest plantation, **or wildlands** unless it contains at least ten (10) contiguous acres. The parcel may be of any shape but must be at least fifty (50) feet in width.

SECTION 7. IC 6-1.1-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5.5. (a) A landowner may file ~~an~~ **a revised** application with the state forester under section 11 of this chapter to have classified as native forest land, ~~or~~ a forest plantation, **or wildlands** a parcel of land that:

- (1) consists of at least one (1) acre;
- (2) meets the requirements of section 3 of this chapter; and
- (3) is contiguous to a parcel of land owned by the landowner that is already classified as native forest land, ~~or~~ a forest plantation, **or wildlands**.

- (b) A parcel of land described in subsection (a) must be ~~(1) described and platted under section 9 of this chapter. and~~ ~~(2) assessed under section 10 of this chapter.~~

The description and plat under this subsection must be combined with the plat of the existing classified lands.

(c) The revised plat and application prepared under this section:

- (1) replace the prior application and plat; and**
- (2) assume the effective date of the original application for purposes of section 24 of this chapter.**

SECTION 8. IC 6-1.1-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. A parcel of land may not be classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** if a dwelling or other building is situated on the parcel.

SECTION 9. IC 6-1.1-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. A parcel of land may not be classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** if it is grazed by domestic animals or confined nondomesticated animals.

SECTION 10. IC 6-1.1-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) **Except as provided in subsections (b) and (c),** a person who:

- (1) wishes to have a parcel of land classified as native forest land, ~~or as~~ a forest plantation, or wildlands; or**
- (2) submits a revised application due to:**
 - (A) the partial withdrawal of existing classified land;**
 - (B) division of the parcel related to a conveyance; or**
 - (C) the combination of contiguous lands;**

must have the parcel described by a registered land surveyor. The

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1 parcel must be described by metes and bounds or other professionally
 2 accepted practices and must locate the parcel with reference to an
 3 established corner. In addition, the description must identify the parcel
 4 by section, township, range, and county references. The surveyor shall
 5 prepare plats of the parcel in ink, and the surveyor shall prepare the
 6 plats on the scale, and in the number, prescribed by the department of
 7 natural resources.

8 (b) The registered land surveyor may use an aerial photograph in
 9 order to prepare a description of the parcel. However, the surveyor's
 10 description must be accurate, and it must meet the requirements
 11 specified in subsection (a) of this section. If an aerial photograph is
 12 used, that fact shall be noted on the application referred to in section 11
 13 of this chapter.

14 **(c) The natural resources commission may adopt rules to allow**
 15 **other means to describe and plat a parcel under this section.**

16 SECTION 11. IC 6-1.1-6-10 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) The county
 18 assessor shall assess the land at its fair market value, including any
 19 mineral, stone, oil, or gas value it may have; but, the county ~~assessor~~
 20 **assessor** shall not consider the standing timber on the land in making
 21 the assessment. In addition to assessing the specific parcel of land, the
 22 county assessor shall also assess, at its fair market value, all of the
 23 remaining land (exclusive of improvements) which is situated in the
 24 section in which the land proposed for classification lies and which is
 25 not within a city or town. In making these assessments, the county
 26 assessor shall value each quarter section separately and shall designate
 27 the assessment for each quarter section.

28 (b) If the assessment made by the county assessor is not satisfactory
 29 to the owner, the owner may appeal the assessment to a board
 30 consisting of the assessor, auditor, and treasurer of the county in which
 31 the land proposed for classification is located. The decision of the
 32 board is final.

33 SECTION 12. IC 6-1.1-6-11 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. A person who
 35 wishes to have a parcel of land classified as native forest land, ~~or as~~ a
 36 forest plantation, **or wildlands** must file an application in duplicate
 37 with the state forester on the forms prescribed by the state forester. The
 38 application must include the signature of the owner, the registered land
 39 surveyor **or other person described in rules adopted under section**
 40 **9(c) of this chapter**, the state forester, and the county assessor.

41 SECTION 13. IC 6-1.1-6-13 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. If an application

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1 filed under section 11 of this chapter is approved, the applicant shall
 2 record the approved application in ~~his~~ **the applicant's** name. ~~Thus,~~
 3 **However,** if the applicant is a partnership, corporation, limited liability
 4 company, or association, the applicant shall record the approved
 5 application in the name of the partnership, corporation, limited liability
 6 company, or association. When an approved application is properly
 7 recorded, the county auditor shall enter the land for taxation at an
 8 assessed value determined under section 14 of this chapter.

9 SECTION 14. IC 6-1.1-6-14 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. Land which is
 11 classified under this chapter as native forest land, ~~or as~~ a forest
 12 plantation, **or wildlands** shall be assessed at one dollar (\$1) per acre
 13 for general property taxation purposes.

14 SECTION 15. IC 6-1.1-6-15 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. If any oil, gas,
 16 stone, coal, or other mineral is obtained from land which is classified
 17 as native forest land, ~~or as~~ a forest plantation, **or wildlands**, the parcel
 18 shall immediately be assessed for the oil, gas, stone, coal, or other
 19 mineral wealth. The assessed value of the mineral wealth shall then be
 20 placed on the tax duplicate.

21 SECTION 16. IC 6-1.1-6-16 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The natural
 23 resources commission shall, by rule, establish minimum standards of
 24 good timber and wildlife management.

25 (b) The department of natural resources shall prescribe a
 26 management plan for each classified ~~forest~~ parcel.

27 (c) The management plan must be followed for the owner to be in
 28 compliance with this chapter.

29 SECTION 17. IC 6-1.1-6-18 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. The owner of a
 31 parcel of land which is classified as native forest land, ~~or as~~ a forest
 32 plantation, **or wildlands** shall post four (4) signs on the parcel. The
 33 owner shall place the signs on the boundaries of, and on different sides
 34 of, the parcel at the points which are the most conspicuous to the public
 35 or at the property corners. The department of natural resources shall
 36 furnish the signs and shall designate the size and the wording of the
 37 signs.

38 SECTION 18. IC 6-1.1-6-19 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. At least once every
 40 five (5) years the state forester, or the state forester's deputy, shall
 41 inspect each parcel of land which is classified as native forest land, ~~or~~
 42 ~~as~~ a forest plantation, **or wildlands**. On each inspection trip the state

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forester, or the state forester's deputy, shall, if possible, have the owner go over the parcel with ~~him~~ **the state forester** and shall point out to the owner any needed improvement. In addition, the state forester shall give the owner a written report of the inspection and the state forester's recommendations. A permanent record of each inspection shall be maintained in the office of the state forester.

SECTION 19. IC 6-1.1-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. **(a)** If the owner of land which is classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** wishes to have the land withdrawn from the classification, the owner shall have the county assessor of the county in which the land is situated assess the land. The county ~~assessor~~ **auditor** shall determine the taxes that are required under section 24 of this chapter. The owner shall then file a withdrawal request in duplicate with the state forester on forms prescribed by the state forester. The state forester shall withdraw the land from the classification on receipt of the withdrawal forms.

(b) If the owner of land that is classified as native forest land, a forest plantation, or wildlands wishes to have a part of the classified land removed, in addition to the requirements under subsection (a), the owner shall submit a revised application for the remaining eligible land. The revised application assumes the effective date of the original application.

SECTION 20. IC 6-1.1-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. **(a)** The state forester shall withdraw land which is classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** from the classification if the state forester finds that the provisions of this chapter are not being complied with and that the owner of the land refuses to make the changes necessary for compliance.

(b) If the state forester withdraws land under this section, the state forester shall have the county assessor of the county in which the land is situated assess the land. The county ~~assessor~~ **auditor** shall determine the taxes that are required under section 24 of this chapter. In addition, the state forester shall immediately notify the owner that the land has been withdrawn.

SECTION 21. IC 6-1.1-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 23. If land classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** is withdrawn from the classification, the state forester shall immediately notify the auditor of the county in which the land is situated that the land has been withdrawn. In addition, when land is withdrawn, the owner of the

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land shall make a notation of the withdrawal in the records of the county recorder **on forms provided by the state forester.**

SECTION 22. IC 6-1.1-6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 24. (a) If land that is classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** is withdrawn from the classification, the owner shall pay an amount equal to the sum of **the following:**

(1) The total property taxes that, if it were not for the classification, would have been assessed on the land during the period of classification or the ten (10) year period immediately preceding the date on which the land is withdrawn from the classification, whichever is lesser. ~~plus~~

(2) Interest on the property taxes at the rate of ten percent (10%) simple interest per year.

(3) A penalty amount of one hundred dollars (\$100) per withdrawal plus fifty dollars (\$50) per acre, unless an amount is established by rule by the natural resources commission. However, the natural resources commission may not increase the penalty amount more than once every five (5) years.

(b) The liability imposed by this section is a lien upon the land withdrawn from the classification. When the ~~amount is collected; it shall be paid into the county general fund:~~ **collects the amount, the funds shall be distributed as follows:**

(1) **Seventy-five percent (75%) of the penalty under subsection (a)(3) shall be transferred by the county auditor to the treasurer of state who shall deposit the amount in the forest restoration fund (IC 14-12-1-11.1).**

(2) **Twenty-five percent (25%) of the penalty under subsection (a)(3) plus the taxes and interest collected under subsection (a)(1) and (a)(2) shall be deposited by the county auditor into the county general fund.**

If the amount is not paid, it shall be treated in the same manner the delinquent taxes on real property are treated.

(c) The county auditor shall determine the tax owed under subsection (a). ~~using the assessment required in section 10(a) of this chapter.~~

SECTION 23. IC 6-1.1-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 25. **(a)** A conveyance of land which is classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** does not release any person acquiring an interest in the land from any obligation or liability imposed under this chapter.

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(b) If land that is classified as native forest land, a forest plantation, or wildlands is conveyed in a manner that divides the classified land into two (2) or more parcels, the owner shall file a new application for each parcel. The new application does not affect the original date of the classification.

(c) If the owner of land that is classified as native forest land, a forest plantation, or wildlands decides to sell or convey the classified land, the owner must disclose in writing the following information to the potential purchaser:

(1) That the land is enrolled in the classified land program.

(2) Any potential violations, tax liabilities, and penalties under this chapter.

SECTION 24. IC 6-1.1-6-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 27. The owner of a parcel of land which is classified as native forest land, ~~or as~~ a forest plantation, **or wildlands** shall file a report once each year with the state forester on forms furnished by the state forester.

SECTION 25. IC 6-1.1-6.2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) If the owner of land that is classified as a windbreak wishes to have the land withdrawn from the classification, the owner shall have the county assessor of the county in which the land is situated assess the land. The county assessor shall make the assessment in the manner prescribed in section 5 of this chapter. The owner shall then file a withdrawal request in duplicate with the department of natural resources on forms prescribed by the department of natural resources. The department of natural resources shall withdraw the land from the classification on receipt of the withdrawal forms.

(b) Land classified as windbreak under this chapter, as forest plantation, ~~or~~ native forest land, **or wildlands** under IC 6-1.1-6 ~~or as wildlife habitat under IC 6-1.1-6.5~~, may be transferred from one (1) classification to another, as appropriate, whenever the land transferred qualifies under the new classification. A change in classification does not constitute a withdrawal. Upon subsequent withdrawal from classification, the date of initial classification and the initial classification assessment shall be used in determining any withdrawal payments. The department of natural resources shall furnish the forms necessary to transfer within classifications.

SECTION 26. IC 14-12-1-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 11.1. (a) The forest restoration fund is established. Expenditures from the fund may be made only**

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to carry out the purpose of restoration, conservation, and improvement of lands:

(1) classified as native forest land, forest plantations, or wildlands under IC 6-1.1-6; and

(2) approved by the state forester.

(b) The foundation shall do the following:

(1) Hold the fund in the name of the foundation.

(2) Administer the fund.

(3) Make all expenditures from the fund.

(c) Gifts of money to the fund or the proceeds from the sale of gifts donated to the fund or the foundation shall be deposited in the fund.

(d) The expenses of administering this chapter shall be paid from money in the fund.

(e) The money in the fund at the end of a state fiscal year remains in the fund and does not revert to any other fund. If the foundation is terminated, the money in the fund reverts to the department.

(f) The fund is subject to audit as if the foundation were a state agency.

SECTION 27. IC 14-23-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) It is the public policy of Indiana to protect and conserve the timber, water resources, wildlife, and topsoil in the state forests **owned and operated by the division of forestry** for the equal enjoyment and guaranteed use of future generations. However, by the employment of good husbandry, timber that has a substantial commercial value may be removed in a manner that benefits the growth of saplings and other trees by thinnings, improvement cuttings, and harvest processes and at the same time provides a source of revenue to the state and counties and provides local markets with a further source of building material.

(b) **Notwithstanding subsection (a), IC 13-12-4 does not apply to forestry management practices of the division of forestry.**

SECTION 28. IC 14-23-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. As used in this chapter, "merchantable timber" means ~~live, standing~~ **timber, trees, and parts of trees that are at least fourteen (14) inches in diameter at a place four and one-half (4 1/2) feet above the ground: can be used for sawtimber, veneer, poles, posts, pulp, and any other product using wood or parts of trees.**

SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 6-1.1-6-10; IC 6-1.1-6-22; IC 6-1.1-6-5;



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1 IC 14-36-1-36.

2 SECTION 30. [EFFECTIVE JULY 1, 2006] (a) Notwithstanding
3 IC 6-1.1-6-24, as amended by this act, if land that is classified as
4 native forest land, a forest plantation, or wildlands under
5 IC 6-1.1-6, as amended by this act, is withdrawn from the
6 classification, the owner is not required to pay the penalty under
7 IC 6-1.1-6-24(a)(3), as added by this act. However, the owner shall
8 pay any other taxes and penalties required under IC 6-1.1-6, as
9 amended by this act.

10 (b) This SECTION expires July 1, 2007.

11 SECTION 31. [EFFECTIVE UPON PASSAGE] (a) On June 30,
12 2006, land classified as wildlife habitat under IC 6-1.1-6.5, before
13 its repeal by this act, is classified on July 1, 2006, as wildlands
14 under IC 6-1.1-6, as amended by this act. The change in
15 classification does not constitute a withdrawal. Upon subsequent
16 withdrawal from classification, the date of initial classification and
17 the initial classification assessment shall be used in determining
18 any withdrawal payments. The department of natural resources
19 shall furnish the forms necessary to change classifications.

20 (b) This SECTION expires July 1, 2011.

21 SECTION 32. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 354, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 354 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 7, Nays 1.

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